

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

CHERYL GLAZIER, RANDI
WRIGHT, AMANDA CAPE and
KEELY ROBARE, individually and on
behalf of all other similarly situated
individuals,

Case No.
Hon.

Plaintiffs,

v.

TRUE NORTH ENERGY, LLC,

Defendant.

Noah S. Hurwitz (P74063)
NACHTLAW, P.C.
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There is no other pending or resolved civil action arising out
of this transaction or occurrence alleged in the complaint.

COMPLAINT AND JURY DEMAND

Plaintiffs Cheryl Glazier, Randi Wright, Amanda Cape and Keely Robare, by
and through their attorneys, NACHTLAW, P.C., hereby allege as follows:

INTRODUCTION

1. This is an action for money damages, liquidated damages, costs,

attorneys' fees and other relief as a result of Defendant True North Energy LLC's misclassification of its gas station/convenience store managers as employees who are exempt from overtime compensation in violation of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. §§ 201, *et seq.*, when Defendant's managers worked over forty hours every week, but never customarily and regularly directed the work of at least two or more other full-time employees.

2. This action is brought pursuant to the opt-in collective action provisions of the Fair Labor Standards Act under 29 U.S.C. § 216(b), sometimes referred to as an "opt-in" class action.

PARTIES AND JURISDICTION

3. Plaintiff Cheryl Glazier is an individual residing in Traverse City, Michigan, which is located in Grand Traverse County.

4. Plaintiff Randi Wright is an individual residing in Traverse City, Michigan, which is located in Grand Traverse County.

5. Plaintiff Amanda Cape is an individual residing in Honor, Michigan, which is located in Benzie County.

6. Plaintiff Keely Robare is an individual residing in Traverse City, Michigan, which is located in Grand Traverse County.

7. Defendant True North Energy LLC is a company with its registered business address in Lambertville, Michigan, which is located in Monroe County.

8. This Court has general federal question jurisdiction pursuant to 28 U.S.C. § 1331, because Plaintiffs brings their claims pursuant to the Fair Labor Standards Act (“FLSA”), 29 U.S.C. § 201, *et seq.*

9. Venue is proper in this Court because Defendant’s registered business address is in Monroe County, which is within the Eastern District of Michigan.

GENERAL ALLEGATIONS

10. Defendant is a for-profit company that operates a large chain of gas station/convenience stores in Illinois, Ohio and Michigan.

11. At all times relevant to this Complaint, Defendant was Plaintiffs’ employer.

12. At all times relevant to this Complaint, Defendant has been, and continues to be, an employer engaged in interstate commerce within the meaning of the FLSA, 29 U.S.C. § 203.

13. Plaintiffs bring this action on their own behalf and on behalf of all other similarly situated employees of Defendant, present and former, who were and/or are affected by the actions, pay schemes, policies and procedures of any of Defendant’s Michigan stores. *See* **Exhibit A**, Consent of Cheryl Glazier; **Exhibit B**, Consent of Randi Wright; **Exhibit C**, Amanda Cape; **Exhibit D**, Keely Robare.

14. In addition, Plaintiffs bring this action in their individual capacity, separate and apart from the collective action claims set forth herein.

15. At all times relevant to this Complaint, Plaintiffs and other similarly situated individuals were employed as “Managers” and designated as exempt from overtime and paid a salary for work performed.

16. Plaintiffs and other similarly situated individuals consistently and regularly work more than forty (40) hours per week.

17. Plaintiffs and other similarly situated individuals are often required to work over sixty hours per week without any overtime compensation.

18. Plaintiffs and other similarly situated individuals are the only employee working in Defendant’s store(s) at any given time.

19. Plaintiffs and other similarly situated individuals are often deprived of vacation time.

20. The “Store Manager Job Description” states that Store Managers are “required to support their assigned store twenty-four (24) hours per day, seven (7) days per week, by being on duty or call.”

21. Plaintiffs and other similarly situated individuals are often called to the store at all hours of the day and night and are required to “cover” for any non-exempt employees that cannot report to work.

22. Accordingly, Plaintiffs and other similarly situated individuals do not customarily and regularly direct the work of at least two or more other full-time employees or their equivalent.

23. Moreover, the primary duty of Plaintiffs and other similarly situated individuals is not “managing the enterprise, or managing a customarily recognized department or subdivision of the enterprise” within the meaning of the FLSA.

24. Therefore, the work performed by Plaintiffs and other employees designated as managers renders them non-exempt.

25. Defendant applied its policy and practice of not paying overtime compensation to employees who were designated as managers in the same manner to all affected employees.

26. As a result of the misclassification as exempt employees, managers employed by Defendant were and/or are unlawfully deprived of overtime compensation for all hours worked in excess of forty (40) per week.

27. The “collective action class” is defined as (a) all current and former employees of Defendant who worked as managers at any time from three (3) years preceding the filing of this lawsuit through the culmination of this litigation at any of Defendant’s Michigan stores. Plaintiffs reserve the right to amend said class definition consistent with information obtained through discovery.

COUNT I
VIOLATION OF THE FAIR LABOR STANDARDS ACT ON BEHALF OF
PLAINTIFFS, INDIVIDUALLY, AND ON BEHALF OF ALL OTHER
SIMILARLY SITUATED EMPLOYEES, CURRENT AND FORMER

28. Plaintiff incorporates all proceeding paragraphs above as though fully stated herein.

29. At all times relevant to this action, Plaintiffs were Defendant's employees within the meaning of the Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*

30. At all times relevant to this action, Defendant was the employer of Plaintiffs within the meaning of the FLSA.

31. In violation of the FLSA, Defendant failed to pay Plaintiffs and other similarly situated managers proper overtime compensation for hours worked in excess of forty (40) per week.

32. Defendant has a practice and policy of failing and refusing to pay Plaintiffs and all other similarly situated employees for all hours worked in violation of the Fair Labor Standards Act, 29 U.S.C. §§ 201, *et seq.*

33. Defendant's conduct in this regard was a willful violation of the FLSA.

34. As a result of Defendant's unlawful acts, Plaintiffs and all other similarly situated current and former employees are being deprived of earned wages in amounts to be determined at trial. They are entitled to compensation for unpaid overtime wages, interest, liquidated damages, attorneys' fees and costs, and any other remedies available at law or in equity.

DEMAND FOR RELIEF

WHEREFORE, Plaintiffs claim, individually and on behalf of all other similarly situated as follows:

- a. Designation of this action as a collective action pursuant to the FLSA and prompt issuance of notice pursuant to 29 U.S.C. § 216(b);
- b. An award of unpaid overtime wages under the FLSA;
- c. An award of liquidated damages under the FLSA;
- d. Interest;
- e. Attorneys' fees and costs under the FLSA; and
- f. Such other relief as in law or equity may pertain.

Respectfully Submitted,
NACHTLAW, P.C.

/s/ Noah S. Hurwitz
Noah S. Hurwitz (P74063)
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Dated: September 16, 2020

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DEMAND FOR TRIAL BY JURY

NOW COME Plaintiffs Cheryl Glazier, Randi Wright, Amanda Cape and Keely Robare, by and through their attorneys, NachtLaw, P.C., hereby demand a jury trial in the above-captioned matter for all issues so triable.

Respectfully Submitted,
NACHTLAW, P.C.

/s/ Noah S. Hurwitz
Noah S. Hurwitz (P74063)
Attorneys for Plaintiff
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